



ALASKA PUBLIC OFFICES COMMISSION

Complainant: ALASKANS FOR BETTER ELECTIONS

Respondents: ALASKANS FOR HONEST ELECTIONS; ALASKANS FOR HONEST GOVERNMENT, RANKED CHOICE EDUCATION ASSOCIATION; and ARTHUR MATTHIAS.¹

Case No. 24-03-CD

PPRE-HEARING BRIEF OF ARTHUR MATTHIAS

Dr. Arthur Matthias (Matthias) files this pre-hearing brief related to the hearing scheduled for January 16, 2024. At this time two of the remaining respondents, Alaskans for Honest Government (AHG) and Alaskans for Honest Elections (AHE) no longer function and/or have been administratively dissolved by the State of Alaska, and thus no longer exist to participate in this proceeding. Ranked Choice Education Association (RCEA) has also been (or soon will be) administratively dissolved by the State of Washington. RCEA continues to exist at this time to complete the appeal to the Alaska Supreme Court in Case Nos. S-19201-S/19221 related to APOC's Final Order in Case No. 23-01-CD.

AHG was never incorporated. It has not received donations since late 2022, it ceased to engage in activity in late 2022 and dissolved its webpage in early 2023. At this time, AHG does not exist, has no funds, and has no means or prospects of obtaining funds. No donor will give to a dead entity that no longer functions and that has APOC fines assessed against it.

¹ For reasons that are inexplicable, Complainant, Alaskans for Better Elections (ABE) insists upon misspelling Dr. Arthur Matthias' name. As a result, APOC, the superior court, and the Alaska Supreme Court have each consistently also misspelled his name. As Dr. Matthias has explained repeatedly, in prior proceedings before APOC and in the record before the superior court in proceedings related to the placement of 22AKHE on the November 2024 ballot, his name is spelled with two letters t—as in **Matthias**.

AHE ceased all activity related to 22AKHE, except for filing subsequent quarterly reports with APOC, in early 2024 after the Lt. Governor certified the initiative to appear on the November 2024 general election ballot. The AHE webpage was subsequently converted to an individual webpage of Mr. Phillip Izon in early 2024. No one took affirmative action to dissolve AHE. However, AHE was involuntarily dissolved by the State of Alaska on September 23, 2024, for failing to “file a biennial report; and/or pay the associated biennial report fees; and/or maintain a registered agent; and/or notify this office of any change to its registered agent by filing a statement of change; and/or pay the associated statement of change fees.”² AHE could not pay its biennial report fees because it has no funds and has no means or prospects of obtaining funds—no donor will give to a dead entity that no longer functions and that has APOC fines assessed against it. AHE had no means by which to continue its existence because no AHE donor is under an obligation to donate to the entity or pay its financial obligations. Therefore, having been involuntarily dissolved by the State of Alaska, AHE effectively no longer exists.³

RCEA. The remaining respondent, Ranked Choice Education Association (RCEA), exists at this time solely to pursue an appeal to the Alaska Supreme Court of earlier fines leveled against it in Case No. 23-01-CD. RCEA has or soon will be involuntarily dissolved by the State of Washington. Like AHG and AHE, RCEA has no funds and has no means or prospects of obtaining funds.⁴

² Ex. A.

³ AHE continues to be named as a party in the appeal presently pending in the Alaska Supreme Court in Cases Nos. S-19201-S/19221 related to the fines APOC issued in Case No. 23-01-CD. AHE may benefit to some degree derivatively from the Alaska Supreme Court’s decision in that case, but the appeal is being pursued principally by Dr. Matthias for himself and RCEA.

⁴ Although there is currently an appeal pending in the Alaska Supreme Court (Case Nos. S- 19331/S-19341) regarding attorney’s fees and costs against the Plaintiffs in the initiative ballot litigation (Case No. 3AN-24-05615 CI), the fees and costs in that case were sought by and

**RESPONSE OF DR. MATTHIAS TO THE PROPOSED ADDITIONAL AS 15.13.040(k)
\$50 PER DAY FINE UNDER AS 15.13.390(a)(1) FOR THE 34 DAYS BETWEEN
FEBRUARY 3, 2024, AND MARCH 7, 2024, TOTTALLING \$1,700**

Dr. Matthias files this Prehearing Brief at this time but does not intend to appear at the January 16, 2025, hearing.

Dr. Matthias played no role in the 22AKHE campaign in the period of time in 2024 after the Lt. Governor certified the initiative for the November 2024 general election ballot. The campaign for 22AKHE was run and supported by a new ballot group called Yes on 2. That ballot group was incorporated and run by Mikaela Emswiler, Al Smay, and Ron Johnson.

APOC Staff has recommended an additional \$1,700 fine against Dr. Matthias for his failure to file a Form 15-5 Statement of Contributions for the 34-days between February 3, 2024 (the day following the date that APOC Ordered Matthias to file such a report regarding his alleged \$90,000 contribution to AHE) and March 7, 2024 (the date on which Matthias filed the report under protest **pending completion of his appeal** of the APOC Final Order in Case No. 23-01-CD).

ABE now ridiculously asks the Commission to ignore APOC Staff's recommendation and assess an additional \$11,000 fine against Dr. Matthias as if he never filed a Form 15-5 Statement of Contributions report on March 7, 2024. ABE's suggestion should be rejected.

As the Commission will recall, Dr. Matthias donated \$90,000 to RCEA on December 22, 2022.⁵ Prior to Dr. Matthias giving RCEA this \$90,000 donation, RCEA had already received a \$250,000 donation from a different donor.⁶ Whether Dr. Matthias was the source of RCEA's later donations totaling \$90,000 to AHE is pending on appeal to the Alaska Supreme Court. Dr. Matthias

assessed for the benefit of the Initiative Sponsors, Dr. Matthias, Phillip Izon, and Jamie R. Donley, and not for AHE and/or RCEA.

⁵ Ex. B.

⁶ Ex. C.

made his donation to RCEA at a time when APOC Staff (Thomas Lucas) had advised the 22AKHE sponsors (including Dr. Matthias) that because they were pursuing a “referendum” they had no registration or reporting obligations related to their signature gathering efforts—in other words, according to APOC’s advice there was no “giving in the name of another” prohibition under AS 15.13.094(b) related to the 22AKHE signature gathering efforts.⁷ APOC Staff’s faulty advice was not corrected until February 23, 2023,⁸ months after Dr. Matthias had already made his donation to RCEA and after RCEA had already started making smaller donations to AHE:

- RCEA donated \$1,000 to AHE by check on February 6, 2023;
- RCEA donated \$75,000 to AHE by cashier’s check dated February 8, 2023;
- RCEA donated \$2,358 to AHE in cash on February 22, 2023; and
- RCEA donated \$1,382 to AHE by way of a check payable to Royal Printing on February 23, 2023.

Having concluded that Dr. Matthias donated to AHE rather than RCEA, the Commission previously concluded that under AS 15.13.040(k) Matthias should have reported his donation on a Form 15-5 Statement of Contributions within thirty days of the date of the contribution. For that failure to report the Commission previously concluded that Dr. Matthias was subject to a penalty of \$8,250 under AS 15.13.390(a)(1), calculated at \$50 per day for 165 days. The Commission calculated the penalty it assessed on Dr. Matthias for failing to report his alleged \$90,000 contribution to AHE as follows:

Mr. Mathias made a \$90,000 contribution to RCEA on December 22, 2022, which, as discussed below, was a contribution to AHE through RCEA as intermediary. Mr. Mathias was required to file a statement of contributions report by January 21, 2023, 30 days after making that contribution, leading to a penalty period of 165 days and a maximum statutory penalty of \$8,250. 2 AAC 50.855(b)(3)(B) reduces

⁷ Ex. D.

⁸ Ex. E (Exc. 199-200).

this penalty by 50 percent because the missing report is Mr. Mathias’s first alleged violation. The Commission then applies 2 AAC 50.865(a)(1)(B) and (b)(2)(B) to mitigate the penalty entirely through February 23, 2023⁹ and by 50 percent thereafter. That leads to a penalty of \$1,237.50 for this violation.

Thus, APOC already fined Dr. Matthias for a period of 165 days between February 24, 2023, and July 5, 2023 (the period subject to the complaint in Case No. 23-01-CD). APOC Staff recommends that the Commission fine Dr. Matthias for an additional 34-days (between February 3, 2024, and March 7, 2024) because **despite the pendency of his appeal** he did not file a report regarding his alleged contribution.

CONCLUSION. Dr. Matthias filed his report under protest on March 7, 2024, 34-days after February 2, 2024. There is no basis for imposing an additional fine against him under AS 15.13.040(k) and AS 15.13.390(a)(1) for any days beyond March 7, 2024. ABE’s requested additional fine is outrageous and unfounded and should be rejected.

Dated this 6th Day of January 2025.

Law Offices of Kevin Clarkson, LLC

Kevin Clarkson

By _____

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⁹ February 23, 2023, is the day that APOC Staff corrected its prior incorrect advice to Mr. Izon to the effect that the sponsors of 22AKHE had no registration or reporting obligations related to their pursuit of signatures for the initiative. Ex. E.

EX. A

Alaska Entity #10221011

State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Alaskans For Honest Elections
Registered Agent: Diamond Metzner

Certificate of Involuntary Dissolution/Revocation

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby issues this Certificate of Involuntary dissolution or Revocation to the below-mentioned entity.

This entity is dissolved/revoked for failure to either: file a biennial report; and/or pay the associated biennial report fees; and/or maintain a registered agent; and/or notify this office of any change to its registered agent by filing a statement of change; and/or pay the associated statement of change fees. The entity will cease to exist as of the date of this certificate, except as provided for by Alaska Statutes.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community, and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

Alaskans For Honest Elections



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **September 23, 2024**.

A handwritten signature in black ink, appearing to read "Julie Sande", written in a cursive style.

Julie Sande
Commissioner



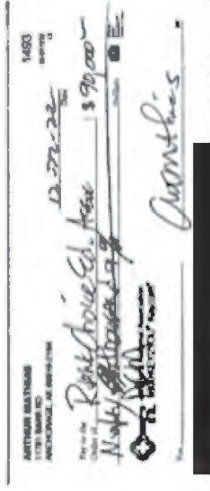
Check # 1493

Type
Check

Transaction Total
\$90,000.00


Posted Date
December 27, 2022

Front



Back



December 31, 2022 ■ Page 2 of 5


Interest summary

Interest paid this statement	\$8.35
Average collected balance	\$277,161.36
Annual percentage yield earned	0.10%
Interest earned this statement period	\$8.35
Interest paid this year	\$8.35

Transaction history

Date	Check Number	Description	Deposits/ Credits	Withdrawals/ Debits	Ending daily balance
12/21		[REDACTED]	25.00		
12/21		[REDACTED]	250,000.00		250,025.00
12/23		[REDACTED]	90,000.00		
12/23	1001	Check		12,500.00	327,525.00
12/30	1002	Deposited OR Cashed Check		19,500.00	
12/30		Interest Payment	8.35		308,033.35
Ending balance on 12/31					308,033.35
Totals			\$340,033.35	\$32,000.00	

The Ending Daily Balance does not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account when your transactions posted. If you had insufficient available funds when a transaction posted, fees may have been assessed.

Summary of checks written (checks listed are also displayed in the preceding Transaction history)

Number	Date	Amount	Number	Date	Amount
1001	12/23	12,500.00	1002	12/30	19,500.00

Monthly service fee summary

For a complete list of fees and detailed account information, see the disclosures applicable to your account or talk to a banker. Go to wellsfargo.com/feefaq for a link to these documents, and answers to common monthly service fee questions.

Fee period 12/21/2022 - 12/31/2022	Standard monthly service fee \$25.00	You paid \$0.00
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We waived the fee this fee period to allow you to meet the requirements to avoid the monthly service fee. Your fee waiver is about to expire. You will need to meet one of the requirements to avoid the monthly service fee.

How to avoid the monthly service fee	Minimum required	This fee period
Have any ONE of the following account requirements		
- Minimum daily balance	\$10,000.00	\$250,025.00 <input checked="" type="checkbox"/>
- Combined balance in linked accounts, which may include	\$15,000.00	\$310,302.77 <input checked="" type="checkbox"/>
- Average ledger balance in your Navigate Business Checking, Initiate Business Checking, and Additional Navigate Business Checking, plus		
- Average ledger balance in your Business Market Rate Savings, and Business Platinum Savings, plus		
- Average ledger balance in your Business Time Account and Business Step Rate Time Account		

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EX. D

previously count under AS 15.13.116(a)(9), or when expenditures were not made or contributions were not received during the previous year.

(e) A group formed to sponsor a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter, each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

But, because the definition of an expenditure does not include money spent during the signature gathering stage of a referendum (unlike, an initiative), the quarterly reports filed can be \$0 reports. There is one caveat, however. If the sponsoring group for a referendum decides to file \$0 reports, it will not be able to transfer any excess funds to the proposition stage, unless it includes all contributions received and expenditures made on its first report at the proposition stage. Alternatively, the sponsoring group could simply choose to report all contributions received and expenditures made on its quarterly reports.

Which leads to how you are currently registered – as an entity. This is fine where a sponsoring group has not yet organized, but it can lead to reporting complications if money is transferred over to the proposition stage – basically, any purchases made by the entity before filing with the Lieutenant Governor would be considered non-monetary contributions to the sponsoring group.

I am certain you will have questions and invite you to call so that we can discuss them.

Thomas R. Lucas

Campaign Disclosure Coordinator

Alaska Public Offices Commission

2221 E. Northern Lights Blvd., Rm. 128

Anchorage, Alaska 99508

Phone: (907) 276-4176

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sure are filed correctly with the State.

One entity is Alaskans For Honest Elections - 501(C)4 not for profit

One entity is Alaskans For Honest Government PAC registered with FEC

One entity is Alaskans For Honest Elections Bill Initiative - no official formation documents just the name of the initiative.

How would these need to be registered with the State? As entities or groups, thank you.

Phil

On Fri, Nov 18, 2022 at 1:20 PM Lucas, Tom R (DOA) <tom.lucas@alaska.gov> wrote:

Phil,

It appears that what you are contemplating is a referendum (a ballot proposition to repeal a law), not an initiative. The two are treated differently during the signature gathering stage. For a referendum, any money spent is not considered an expenditure until the referendum becomes a proposition (that is, sufficient signatures were gathered and the Lieutenant Governor has scheduled it for the ballot at an election).

Nevertheless, a group formed to sponsor a referendum must file a report within 30 days after its first filing with the Lieutenant Governor and within 10 days after the end of each calendar quarter thereafter:

Sec. 15.13.110. Filing of reports.

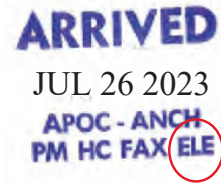
(a) Each candidate, group, and nongroup entity shall make a full report in accordance with [AS 15.13.040](#) for the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report. If the report is a first report, it must cover the period from the beginning of the campaign to the date three days before the due date of the report. If the report is a report due February 15, it must cover the period beginning on the last day covered by the most recent previous report or on the day that the campaign started, whichever is later, and ending on February 1 of that year. The report shall be filed

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

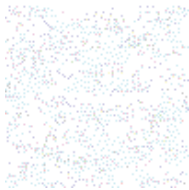
(2) one week before the election;

(3) 105 days after a special election; and, including, if applicable, all amounts expended from a public office expense term account established under [AS 15.13.116\(a\)\(8\)](#) and all amounts expended from a municipal office account

(4) February 15 for expenditures made and contributions received that were not reported



From: **Hebdon, Heather R (DOA)** <heather.hebdon@alaska.gov>
Date: Thu, Feb 23, 2023 at 4:55 PM
Subject: APOC Registration & Reporting Obligations
To: nevesiltstudio@gmail.com <nevesiltstudio@gmail.com>
Cc: Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>, Stormont, Charles R (DOA) <charles.stormont@alaska.gov>, Lucas, Tom R (DOA) <tom.lucas@alaska.gov>



Good afternoon Mr. Izon,

I am writing to follow up on the attached email chain between you and Tom Lucas (APOC staff) and also because the agency has received some public inquiries about the formation and reporting requirements for your group.

In the attached email, Tom appears to have misunderstood the purpose of your group in that he believed you were seeking to file a referendum, when in actuality, you were filing an [initiative proposal application](#). It does not appear that you corrected his understanding and unfortunately the information he provided is not accurate as to your group's requirements.

As he pointed out, initiatives and referendums are treated differently under campaign disclosure – that is to say that groups that form to either file a referendum application or file an initiative proposal application have different reporting obligations. Unlike a referendum sponsor, sponsors of an initiative proposal application have reporting obligations during the signature gathering stage. This is because money raised in support of an initiative proposal application meets the definition of a contribution and similarly, money spent to influence an initiative proposal application meets the definition of an expenditure [AS 15.13.400(4)(A)(iii) and AS 15.13.400(7)(A)(v)].

What this means is that you need to:

1. register as an initiative proposal application group;

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2. file independent expenditure reports within 10 days of making an expenditure;
3. file quarterly reports within 7 days after the end of each calendar quarter;
4. your contributors who give \$500 or more in the aggregate must also file statements of contributions within 30 days of making the contribution.

I would also recommend that you review the [training material](#) posted on our website for independent expenditures and ballot measure groups. It has a lot of helpful information and I would suggest taking a close look at paid for by identifier requirements that are necessary for all of your group communications.

Based on the date the application was filed with the Lt. Governor's Office (11/23/22), it is likely that reports are overdue at this time. My intention today is to bring this to your attention so that we can help get you into compliance moving forward to avoid a publicly-initiated complaint.

If you have questions about this, please feel free to contact either myself or Charles Stormont, our campaign disclosure paralegal, we are happy to help.

Best,

Heather R. Hebdon

Executive Director

Alaska Public Offices Commission

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